

West Virginia Executive Branch Privacy Tip of the Week

CAN-SPAM Act Considerations

Question:

Dare I even ask..... can you tell me more about the CAN-SPAM Act?

Answer:

Does your department ever send commercial e-mails promoting special rates or other services, such as those sent out regarding State Parks? If so, you need to comply with the Federal CAN-SPAM Act as well as the **West Virginia Privacy Policy: Consent**. These rules impose preference, content and process requirements on senders of commercial e-mails.

- ✓ **Preference Requirements:** CAN-SPAM requires senders of commercial e-mails to offer recipients an opt-out. In particular, each commercial e-mail must contain a clear and conspicuous notice of the opportunity to opt out along with a functioning, clearly and conspicuously displayed return e-mail address that allows the recipient to opt out of future e-mails from that sender.
- ✓ **Content Requirements:** All commercial e-mails must contain the following content: (1) accurate header identifying the source, destination and routing number; (2) a non-deceptive subject line; (3) a working return e-mail address for the sender; (4) the sender's physical (postal) address; and (5) a clear and conspicuous statement in the body of the e-mail that states that the e-mail is an advertisement or solicitation.
- ✓ **Process Requirements:** The opt-out mechanism must function for at least thirty (30) days from the date the e-mail was sent. All opt-outs must be processed within ten (10) business days.

Special opt-in rules exist for messages sent to wireless devices such as cell phones. You should not send commercial messages via Short Message Service (SMS) - a service for sending text messages on a cell phone - unless you have approval from your Privacy Officer.

If you have any questions about the CAN-SPAM requirements or if you need approval for SMS marketing, please contact your Privacy Officer.